

STATEMENT OF RICHARD MILANOVICH
CHAIRMAN, AGUA CALIENTE BAND OF CAHUILLA INDIANS

BEFORE THE
THE SENATE INDIAN AFFAIRS COMMITTEE

REGARDING

H. R. 700

JULY 8, 1998

MR. CHAIRMAN AND MEMBERS OF THE SENATE INDIAN AFFAIRS COMMITTEE. I AM RICHARD MILANOVICH, CHAIRMAN OF THE TRIBAL COUNCIL FOR THE AGUA CALIENTE BAND OF CAHUILLA INDIANS. OUR RESERVATION ENCOMPASSES PORTIONS OF PALM SPRINGS, CATHEDRAL CITY, RANCHO MIRAGE AND THE COUNTY OF RIVERSIDE. AS TRIBAL CHAIRMAN, I AM HERE IN SUPPORT OF THE AMENDMENT TO H.R. 700, LEGISLATION THAT WILL ADDRESS A PROBLEM THAT HAS PLAGUED OUR TRIBE FOR ALMOST 50 YEARS.

I WANT TO THANK CHAIRMAN CAMPBELL AND SENATOR INOUE FOR EXTENDING TO ME THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY. THE LEGISLATION BEFORE YOU WAS ORIGINALLY INTRODUCED ON OUR BEHALF BY THE LATE CONGRESSMAN SONNY BONO AND CONGRESSMAN DALE KILDEE. I MIGHT ADD THAT CONGRESSWOMAN MARY BONO HAS JOINED CONGRESSMAN KILDEE IN TRANSMITTING A LETTER OF SUPPORT FOR THIS LEGISLATION TO THIS COMMITTEE.

H.R. 700 WAS APPROVED BY THE HOUSE ON THE SUSPENSION CALENDAR LAST YEAR. IN THE PREVIOUS CONGRESS, THE HOUSE APPROVED, WITHOUT OPPOSITION, H.R. 3804, LEGISLATION INTENDED TO ACCOMPLISH THE SAME GOAL AS H.R. 700. REGRETTABLY, THAT BILL WAS AWAITING ACTION ON THE SENATE FLOOR WHEN THE SENATE ABRUPTLY ADJOURNED.

WE VIEW H.R. 700 AS LEGISLATION THAT ALLOWS OUR TRIBE TO SOLVE AN INTRA-TRIBAL PROBLEM AND YET RESPECTS OUR SOVEREIGNTY. H.R. 700 WOULD REMOVE CERTAIN RESTRICTIONS ON OUR TRIBE'S ABILITY TO PROVIDE NEEDED SERVICES AND SUPPORT FOR MEMBERS OF OUR TRIBE - RESTRICTIONS THAT SHOULD HAVE BEEN ELIMINATED IN DECEMBER OF 1961.

BOTH THE JUSTICE DEPARTMENT AND THE DEPARTMENT OF THE INTERIOR HAVE REVIEWED THIS LEGISLATION AND HAVE INDICATED THEIR SUPPORT FOR THE BILL TO US. FURTHER, WE HAVE BEEN TOLD BY BOTH AGENCIES THAT OUR

PROPOSAL MEETS OUR INTENDED OBJECTIVES AND YET SATISFIES ALL LEGAL REQUIREMENTS OUTLINED IN 1959. FURTHER, THE COURTS IN NORTHERN CHEYENNE TRIBE V. HOLLOWBREAST AND UNITED STATES V. JIM CONFIRM THE TRIBE'S AUTHORITY AND CONSTITUTIONAL STANCE IN PROMOTING THIS LEGISLATION.

LET ME TAKE JUST A MOMENT TO EXPLAIN THE HISTORY OF THIS ISSUE AND THE STEPS THAT OUR TRIBE IS TAKING TO RECTIFY THIS PROBLEM WITH THIS LEGISLATION.

LIKE THE EXPERIENCES OF MANY NATIVE AMERICAN TRIBES IN THE WEST DURING THE EARLY AND MIDDLE PART OF THIS CENTURY, THE AGUA CALIENTE TRIBE LOST MUCH OF OUR TRIBAL TRUST LANDS THROUGH A SYSTEMATIC DISTRIBUTION TO THE INDIVIDUAL MEMBERS OF THE TRIBE. IN 1959, AFTER CONGRESS ENACTED THE AGUA CALIENTE EQUALIZATION ACT, THE TRIBE ITSELF WAS LEFT WITH ONLY A SIX ACRE COMMERCIALY VIABLE PARCEL OF LAND CALLED THE MINERAL SPRINGS PARCEL.

AT THAT TIME THE TOTAL MEMBERSHIP WAS 102 WITH 17 DEEMED BY THE BIA AS HAVING A SUFFICIENT ORIGINAL ALLOTMENT VALUE AND THEREFORE WERE NOT ENTITLED TO PARTICIPATE IN THE EQUALIZATION ACT. THE 1959 LEGISLATION CREATED SPECIFIC PROCEDURES TO ENSURE THAT THE REMAINING 85 MEMBERS OF THE TRIBE WHO DID NOT RECEIVE AN EQUALIZED ALLOTMENT AMOUNT ENJOYED SOME PROTECTIONS OF THEIR INTERESTS UNTIL EQUALIZATION WOULD BE ACHIEVED.

SPECIFICALLY, CONGRESS STATED IN THE 1959 LEGISLATION THAT THERE COULD BE NO REVENUES DISPERSED TO TRIBAL MEMBERS OR TO UNRESTRICTED USE BY THE TRIBE ITSELF FROM ANY ECONOMIC ACTIVITY THAT TOOK PLACE ON PARCEL B OF THIS SIX ACRE TRACT UNTIL THE UNEQUALIZED ALLOTMENT PROBLEM OF THESE 85 MEMBERS WAS RESOLVED.

THE REASON WE ARE BEFORE THIS COMMITTEE TODAY IS BECAUSE OF THE STATUTORIAL REQUIREMENT IMPOSED ON US IN 1959 -- NAMELY THAT WE HAD TO RESOLVE THIS UNEQUALIZED ALLOTMENT PROBLEM BEFORE THE TRIBE CAN USE REVENUES GENERATED FROM PARCEL B FOR THE BENEFIT OF THE ENTIRE TRIBE.

AT THE TIME THAT THE HOUSE APPROVED H.R. 700 IN 1997, IT WAS UNCLEAR TO THE COMMITTEE STAFF AS TO WHETHER ALL MEMBERS OF THE TRIBE HAD BEEN FULLY EQUALIZED UNDER THE TERMS OF THE 1959 LEGISLATION. IN RESPONSE TO REQUESTS BY THIS COMMITTEE AND WORKING WITH THE REGIONAL AND CENTRAL BUREAUS OF INDIAN AFFAIRS, RESEARCH INTO THE AGUA CALIENTE EQUALIZATION PROCESS WAS BEGUN.

BIA DOCUMENTS PROVED THAT FULL EQUALIZATION FOR ALL TRIBAL MEMBERS WAS ACHIEVED BY DECEMBER, 1961. FURTHER, THE DEPARTMENT OF THE INTERIOR PUBLISHED NOTIFICATION IN THE FEDERAL REGISTER ON MARCH 10, 1983 THAT THE PURPOSES OF THE 1959 ACT HAD BEEN MET AND THESE RULES WERE BEING RESCINDED. WE HAVE PROVIDED THE COMMITTEE WITH THIS DOCUMENTATION.

THE TRIBAL COUNCIL OF THE AGUA CALIENTE BAND HAS DISCUSSED PROPOSED CHANGE IN THE LAW IN OVER 20 MEETINGS. ON APRIL 25, 1996, THE TRIBAL COUNCIL, IN A UNANIMOUS VOTE, ADOPTED A RESOLUTION CALLING UPON CONGRESS TO AMEND THE ORIGINAL EQUALIZATION ACT IN AN EFFORT TO REMOVE THE RESTRICTIONS ON THE USE OF THESE FUNDS. TODAY, I AM SUBMITTING TO THE COMMITTEE A LETTER OF SUPPORT FOR THE LEGISLATION THAT HAS BEEN SIGNED BY THE TRIBAL COUNCIL ON BEHALF OF THE OVERWHELMING MAJORITY OF OUR TRIBAL MEMBERS.

ON BEHALF OF OUR TRIBAL COUNCIL, I WOULD LIKE TO ADDRESS THE OPPOSITION TO THIS BILL FROM FIVE INDIVIDUALS (ONE OF WHOM IS NOT A TRIBAL MEMBER). THE FUNDAMENTAL REASON FOR THEIR OPPOSITION IS THAT THEY BELIEVE THAT THE ORIGINAL 85 UNEQUALIZED ALLOTEES, OR THEIR HEIRS REGARDLESS OF WHETHER THEY ARE MEMBERS OF OUR TRIBE, ENJOY A RIGHT IN PERPETUITY TO EXCLUSIVE USE OF REVENUES FROM PARCEL B. IN ADDITION, THEY HAVE STATED THAT THE TRIBE HAS USED REVENUES FROM PARCEL B FOR PURPOSES NOT ALLOWED UNDER THE 1959 ACT.

LET ME COMMENT ON THESE ISSUES. FIRST, ALTHOUGH THE FULL LEGISLATIVE HISTORY ON THE 1959 LEGISLATION IS NOT AVAILABLE FOR REVIEW, IT IS CLEAR FROM WHAT RECORDS DO EXIST THAT THE RESTRICTIONS ON THE USE OF PARCEL B REVENUES WAS A MECHANISM TO ENSURE THAT EQUALIZATION WOULD TAKE PLACE. AS SOON AS EQUALIZATION WAS REALIZED, ANY FURTHER PURPOSE OF RESTRICTED USE OF PARCEL B REVENUES WOULD CREATE UNFAIR AND DISCRIMINATORY TREATMENT FOR THOSE TRIBAL MEMBERS WHO WERE NOT PART OF THE 85 UNEQUALIZED MEMBER GROUPING.

IN ADDITION, SUCH A RESTRICTED USE OF SUCH REVENUES WOULD BE PATENTLY UNFAIR TO THOSE TRIBAL MEMBERS BORN AFTER 1959 WHO WERE NOT ELIGIBLE FOR ALLOTMENT OR EQUALIZATION.

OPPONENTS OF THIS BILL ARE ASKING THE TRIBE TO MAKE PAYMENTS TO NON-TRIBAL INDIVIDUALS WHO ARE CHILDREN OF HEIRS. YET UNDER THEIR REASONING, TRIBAL MEMBERS BORN AFTER 1959 WOULD BE DENIED SIMILAR PAYMENTS. OBVIOUSLY, THIS IS UNACCEPTABLE.

THE INTENT OF THE 1959 ACT CLEARLY WAS TO RESCIND THE RESTRICTIONS ON USE OF PARCEL B REVENUES WHEN EQUALIZATION WAS

ACHIEVED. REGRETTABLY, THE 1959 LEGISLATION WAS NOT DRAFTED IN A WAY TO ADDRESS THAT EVENT. THE DEPARTMENT OF INTERIOR'S NOTICE IN 1983 DOES ADDRESS THIS VERY OCCURRENCE.

WITH RESPECT TO USE OF PARCEL B FUNDS BY OUR TRIBE, REVENUES FROM ECONOMIC ACTIVITY ON PARCEL B WAS INSUFFICIENT TO EVEN MEET THE OPERATING REQUIREMENTS OF THE TRIBAL GOVERNMENT UNTIL 1995. SINCE 1995, ANY REVENUES FROM PARCEL B ACTIVITY HAVE BEEN EARMARKED FOR USE ONLY TO MEET TRIBAL GOVERNMENTAL PURPOSES WHICH IS CONSISTENT WITH THE 1959 LEGISLATION. ALL OF OUR BUDGETS WERE REVIEWED BY THE BIA AND APPROVED BY THE DEPARTMENT OF INTERIOR. ANY IMPROPER USE OF FUNDS WOULD HAVE BEEN DENIED BY THESE AGENCIES.

FURTHER, THE TRIBAL COUNCIL ANNUALLY COMMISSIONS AN INDEPENDENT AUDIT OF OUR BOOKS OF OUR TRIBAL GOVERNMENTAL BOOKS -- CONSISTENT WITH THE SINGLE AUDIT ACT. ALL TRIBAL MEMBERS ARE REGULARLY REMINDED OF THEIR RIGHTS TO INSPECT AND REVIEW THE BOOKS AND THE INDEPENDENT AUDITS OF OUR OPERATIONS. WE HAVE REPEATEDLY EXPRESSED THE LONG-STANDING POLICY OF OUR TRIBAL COUNCIL TO PROVIDE COMPLETE AND UNFETTERED ACCESS TO OUR BOOKS TO ANY AND ALL MEMBERS OF THE TRIBE.

UPON ENACTMENT OF THIS LEGISLATION, ALL LEGAL QUESTIONS REGARDING UTILIZATION OF FUNDS DERIVED FROM PARCEL B WILL BE RESOLVED. WE CAN USE THESE REVENUES TO MEET THE IMMEDIATE AND PRESSING NEEDS OF OUR TRIBAL MEMBERS. THESE REVENUES ARE VITALLY IMPORTANT TO OUR TRIBE.

I WOULD LIKE TO ACKNOWLEDGE THE EFFORTS OF CONGRESSMAN SONNY BONO, AND THANK CONGRESSWOMAN MARY BONO AND CONGRESSMAN DALE KILDEE FOR THEIR LEADERSHIP IN SPONSORING THIS LEGISLATION ON OUR BEHALF. I ALSO WANT TO THANK THE COMMITTEE AND STAFF FOR YOUR EFFORTS IN ENCOURAGING US TO DO THE RESEARCH TO CONCLUSIVELY PROVE THAT ALL MEMBERS OF OUR TRIBE WERE FULLY EQUALIZED BY DECEMBER OF 1961.

I THINK YOUR EFFORTS AND THOSE OF YOUR STAFF HAVE MADE H.R. 700 A BETTER BILL FOR ALL OF US. I ASK FOR YOUR SUPPORT OF OUR POSITION SO THAT 50 YEARS OF INTRUSIVE AND UNNECESSARY LEGAL ENTANGLEMENTS CAN BE RECTIFIED.